

May 4, 2016

House Local Government Committee

Attn.: House Clerk

RE: House Bill 5041 - Substitute

Dear House Clerk,

I am writing on behalf of the administration for the City of Jackson to voice our strong opposition to House Bill 5041. This bill is an ill-conceived attempt to carve out an exception to long held and well established zoning law in order to benefit a few property owners. This proposed legislation will have far reaching impacts on the ability of municipalities to enforce their zoning ordinances and will nullify the entire intent of urban zoning.

The main point of having zoning laws is to be able to keep similar uses in the same area. The law of zoning allows restrictions on owner's rights to prevent the expansion on nonconforming uses (uses which do not meet the zoning requirements). The goal of nonconforming uses is gradual elimination. Nonconforming uses are allowed to exist, but they cannot expand, enlarge or otherwise increase the nonconformance. The Supreme Court of Michigan has established the following rule in 1938 and the rule continues to this day: Where a proposed use does not expand or extend the nonconformance, the property owner or his successor can continue the use. House Bull 5041 will throw away over 70 years of established precedence. Municipalities will never be able to achieve their zoning goals if this bill becomes law.

The bill is also written a confusing manner and it is not even clear whether subsections (7) and (8) apply to all municipalities or just the East Lansing carve out group. Subsection (8) will also further violation of zoning laws by forcing municipalities to give rental certificates to nonconforming rental properties.

It is also the City of Jackson's belief that this bill may conflict with the Michigan building and fire laws.

Sincerely,



Bethany M. Smith
City Attorney